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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/998,002

11/30/2001

Warren S. Slutter

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05/20/2010

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EXAMINER

LAUCHMAN, LAYLA G

ART UNIT

PAPER NUMBER

2877

MAIL DATE

DELIVERY MODE

05/20/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/998,002	Applicant(s) SLUTTER ET AL.	
	Examiner L. G. Lauchman	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2009 and 14 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7, 8, 10-12, 66, 84-130 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,7,8,10-12,66 and 84-130 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Reissue Applications

Response to Arguments

Applicant's arguments filed on 12/09/2009 with respect to the surrender and recapture doctrine have been fully considered and are persuasive. The rejection based on recapture has been withdrawn.

Reissue Oath/Declaration

In accordance with 37 CFR 1.175(b) (1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1, 7, 8, 10-12, 66, 84-130 are rejected as being based upon a defective reissue oath under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

See MPEP § 1414.01.

Allowable Subject Matter

Claims 1, 7, 8, 10-12, 66, 84-130 are allowed.

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive a non-zero order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident

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polychromatic light, without significant mixing with adjacent orders of diffracted light, in combination with the rest of the limitations of the claim.

As to Claim 66, the prior art of record taken alone or in combination, fails to disclose or render obvious imaging said dispersed light with said lens at an exit port located on a second side of said meridian plane for receiving a non-zero order of diffracted light without significant mixing with adjacent orders of diffracted light, in combination with the rest of the limitations of the claim.

As to Claim 106, the prior art of record taken along or in combination, fails to disclose or render obvious reflectively diffracting the second light beam at the grating to form a second diffracted beam; and imaging the second diffracted beam with the lens at the secondary exit port, in combination with the rest of the limitations of the claim.

As to Claim 111, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port being located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 112, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 117, the prior art of record taken along or in combination, fails to disclose or render obvious a primary exit port located substantially out of said meridian plane toward said second side for receiving an order of light that maximizes throughput and minimizes

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astigmatism, and a secondary exit port near said primary focal plane located at a second perpendicular distance from said meridian plane in said direction, in combination with the rest of the limitations of the claim.

As to Claim 125, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, said entrance and exit ports being positioned relative to said lens convex surface and said grating concave surface to reflect light which is reflected by said lens convex surface towards said grating concave surface for reflection generally towards said lens convex surface to follow a path which avoids said exit port, in combination with the rest of the limitations of the claim.

As to Claim 128, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive a non-zero order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, and, overall, to tend to maximize throughput and tend to minimize astigmatism, in combination with the rest of the limitations of the claim.

As to Claim 129, the prior art of record taken alone or in combination, fails to disclose or render obvious an exit port located to receive first order of diffracted light emerging from said lens planar surface at a location on the other side of the meridian plane from the incident polychromatic light, in combination with the rest of the limitations of the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418. The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

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applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

/L. G. Lauchman/
Primary Examiner, Art Unit 2877

5/20/2010